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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/040,603	01/07/2002	Rakesh Bhakta	406990	6079

27717 7590 09/26/2006

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EXAMINER

HOFFMAN, BRANDON S

ART UNIT PAPER NUMBER

2136

DATE MAILED: 09/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/040,603	Applicant(s) BHAKTA, RAKESH	
	Examiner Brandon S. Hoffman	Art Unit 2136	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-9,11-20,22,23,25 and 26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-9,11-20,22,23,25 and 26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1, 3-9, 11-20, 22, 23, 25, and 26 are pending in this office action, claims 2, 21, and 24 are newly canceled.

2. Applicant's arguments, filed July 17, 2006, have been fully considered but they are not persuasive.

Claim Rejections

3. The text of those sections of title 35, U.S. Code not included in this rejection can be found in a prior Office action.

Claim Rejections - 35 USC § 102

4. Claims 1, 3-9, 11-20, 25, and 26 are rejected under 35 U.S.C. 102(e) as being anticipated by Bradford et al. (U.S. Patent No. 6,612,928).

Regarding claim 1: Bradford discloses a gaming device comprising: a gaming terminal, configured for playing at least a first game; (Col 10, Lines 21-22 and Col 33, Lines 51-65) a button for pressing by a game player as a part of said game; (Col 10, Line 29 and Col 33, Lines 51-65) a biometric device for measuring biometric data of the game player by sensing said biometric data directly through said button as it is pressed by the game player. (Col 33, Lines 27-29)

Regarding Claim 3: Bradford discloses the gaming device of claim 2 in which said terminal carries a comparator for comparing the parameters of the game player's fingerprint with parameters obtained from another source, for player identification. (Col 32, Lines 26-32 and Col 35, Lines 4-13)

Regarding claims 4, 8, 13, 14 and 15: The method of claim 12 in which said second biometric data is obtained from a data storage device carried by the game player. (Col 32, Lines 26-32 and Col 10 lines 36-40)

Regarding claim 5, 9, 14, 16 and 20: The gaming device of claim 4 in which said data storage device is a "smart card", comprising a microprocessor. (Col 9, Lines 49-56 and Col 5, lines 36-53)

Regarding Claim 6: Bradford discloses the gaming device of claim 4 further comprising a device for storing the measured biometric data of the game player for later access. (Col 35, Lines 2-4 and Col 36, lines 3-6)

Regarding claim 7: Bradford discloses a gaming device comprising: a gaming terminal, configured for playing of at least a first game; (Col 10, Lines 21-22 and Col 33, Lines 51-65) a button for pressing by a game player as part of said game; (Col 10, Line 29 and Col 33, Lines 51-65) a biometric device for measuring parameters of a fingerprint of the game player as the player touches the button by directly sensing the

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biometric data through the button as it pressed by the game player, said button being transparent; (Col 33, Lines 27-29) said terminal also carrying a comparator for comparing the parameters of the game players' fingerprint with parameters obtained from another source, for player identification; (Col 35, Lines 4-13) and further comprising a device for storing the measured biometric data of the game player for later access. (Col 35, Lines 2-4 and Col 36, lines 3-6)

Regarding Claims 11 and 17: Bradford discloses a gaming method comprising: acquiring first biometric data of a game player by observing said data through a button of a gaming machine when touched by the game player; (Col 32, Lines 41-44) comparing said biometric data with second biometric data provided by another source; (Col 32, lines 43-45) and activating said gaming machine for play by the game player if said first and second biometric data have a close similarity. (Col 32, Lines 44-49 and Col 35, Lines 10-19)

Regarding claims 12 and 18: The method of claim 11 in which said first and second biometric data each comprise parameters of a fingerprint. (Col 32, Line 43)

Regarding Claims 25 and 26: Bradford discloses the device of claim 1 in which said biometric device senses said biometric data directly as a signal passing through said button. (Col 34, Lines 21-29 and Col 35, Lines 35-51)

Claim Rejections - 35 USC § 103

5. Claims 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bradford et al. (USPN '928) in view of Stratford et al. (U.S. Patent Pub. No. 2002/0021001).

Regarding Claims 22 and 23: Bradford discloses a gaming method comprising acquiring first biometric data of a game player through a button on the gaming machine; (Col 32, Lines 41-44) storing biometric data obtained from the player to be used later; (Col 35, Lines 2-4 and Col 36, lines 3-6) comparing biometric data with second biometric data provided by another source; (Col 32, lines 43-45) and activating the gaming machine for play if there is a match. (Col 32, Lines 44-49 and Col 35, Lines 10-19)

Bradford does not explicitly disclose the system storing the biometric data if a mismatch occurs.

Stratford discloses a biometric identification system (see abstract) for real time on-the-spot identification of a card owner (Paragraph 0011, Lines 1-5) wherein the system compares the person finger print to the finger print on the card and stores the fingerprint data if a mismatch occurs (Paragraph 0013, Lines 6-14, item 485 FIG. 4, item 525 FIG. 5 and item 625 FIG.6).

Therefore it would have been obvious to ordinary skilled in the art at the time the invention was made to modify Bradford gambling method with the teachings of Stratford to include the step of storing players biometric data when there is a mismatch between the actual player's fingerprint data and the fingerprint data stored on the card. One would be motivated to do so in order enable the system to log failed attempts to use the system and identify users trying to make unauthorized use of the gaming machine.

Relevant Prior Art

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lambert (U.S. Patent No. 6,572,014) teaches a mouse with a biometric sensor on the button so that clicking the mouse not only provides clicking for window maneuvering, but also captures a biometric sample non-intrusively.

Puchek et al. (U.S. Patent No. 6,496,595) teaches access control to a building, wherein the user presses a button (such as a doorbell) and the button has biometric sampling built into it so the person on the other end knows if the user pressing the button is verified.

Response to 131 Affidavit

7. Examiner would like to point out a few deficiencies in the declarations provided by the legal counsel for IGT (Kimberley DiMino) and attorney (Garrettson Ellis).

8. The declarations filed on July 17, 2006 under 37 CFR 1.131 has been considered but is ineffective to overcome the Bradford et al. reference.

CONCEPTION

Applicant's declaration showing conception with a "Patent Request Display" (exhibit A) properly shows conception of independent claim 1.

DILIGENCE

The evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the Bradford et al. reference to either a constructive reduction to practice or an actual reduction to practice.

The declaration by Kimberley DiMino for showing diligence is deficient in step 6. Item 6 is deficient with the showing of diligence from the "conception" date (June 26, 2001) to the first "action" being performed – faxing the patent request form to the patent attorney (August 22, 2001). Examiner acknowledges that Patent Review Committee meeting once a month to discuss patent disclosures. The deficiency happens after the Patent Review Committee met, which is "the latter part of July 2001." Even assuming the latest date in July (July 31), there is no activity until over 3 weeks later when Lena Van Asdale faxed the patent disclosure statement over to George Gerstman. It has been shown in court that a 2-day period lacking activity has been held to be fatal. In re

Mulder, 716 F.2d 1542, 1545, 219 USPQ 189, 193 (Fed. Cir. 1983) (37 CFR 1.131 issue).

The other steps of Ms. DiMino's declaration are proper in showing diligence during the periods in which Ms. DiMino had the patent application documents in her possession. There is a step-by-step process showing reasonable dates for handling any preparing and communicating of information for the instant application.

The declaration by Garrettson Ellis is proper in showing diligence during the periods in which Mr. Ellis had the patent application documents in his possession. There is a step-by-step process showing reasonable dates for handling any preparing and communicating of information for the instant application.

REDUCTION TO PRACTICE

Applicant has shown proper reduction to practice by the filing of the instant application on January 7, 2002.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brandon S. Hoffman whose telephone number is 571-272-3863. The examiner can normally be reached on M-F 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nasser G. Moazzami can be reached on 571-272-4195. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Brandon H

BH

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